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BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

Case No. VN-2006-1935

ABRAHAM OLVERA VELASQUEZ
83-381 Emerald Street
Indio, CA 92201

Applicant for Vocational Nurse License

Respondent.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the
Director of the Department of Consumer Affairs¹ as the final Decision in the above-entitled matter.

This Decision shall become effective on November 5, 2008.

IT IS SO ORDERED this 26 day of September 2008.



PATRICIA HARRIS
Deputy Director, Board/Bureau Support
Department of Consumer Affairs

¹Pursuant to Business and Professions Code section 101.1(b), on July 1, 2008, the director became vested with the duties, powers, purposes, responsibilities, and jurisdiction of the Board of Vocational Nursing and Psychiatric Technicians.

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER, State Bar No. 101336
Supervising Deputy Attorney General
3 AMANDA DODDS
Legal Analyst
4 110 West "A" Street, Suite 1100
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San Diego, CA 92186-5266
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7

8 Attorneys for Complainant

9 **BEFORE THE**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **FOR THE BUREAU OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Statement of Issues Against:

Case No. VN-2006-1935

14 ABRAHAM OLVERA VELASQUEZ
83-381 Emerald Street
Indio, CA 92201

15 **STIPULATED SETTLEMENT AND**
16 **DISCIPLINARY ORDER**

Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 PARTIES

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) is the Executive
21 Officer of the Bureau of Vocational Nursing and Psychiatric Technicians. She brought this
22 action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr.,
23 Attorney General of the State of California, by Amanda Dodds, Legal Analyst.

24 2. Abraham Olvera Velasquez (Respondent) is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about March 12, 2007, Respondent filed an application dated
27 February 13, 2007, with the Director of Consumer Affairs to obtain a Vocational Nurse License.
28 Respondent's application was denied on or about December 17, 2007. Respondent timely filed
his request for a hearing on the denial of his application on or about January 28, 2008.

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1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in
3 Statement of Issues No. VN-2006-1935.

4 10. Respondent agrees that his Vocational Nurse License is subject to denial
5 and he agrees to be bound by the Director of Consumer Affairs (Director)'s imposition of
6 discipline as set forth in the Disciplinary Order below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Director of Consumer
9 Affairs or her designee. Respondent understands and agrees that counsel for Complainant and
10 the staff of the Bureau of Vocational Nursing and Psychiatric Technicians may communicate
11 directly with the Director and staff of the Department of Consumer Affairs regarding this
12 stipulation and settlement, without notice to or participation by Respondent. By signing the
13 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
14 to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director
15 fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and
16 Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be
17 inadmissible in any legal action between the parties, and the Director shall not be disqualified
18 from further action by having considered this matter.

19 12. The parties understand and agree that facsimile copies of this Stipulated
20 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
21 force and effect as the originals.

22 13. In consideration of the foregoing admissions and stipulations, the parties
23 agree that the Director may, without further notice or formal proceeding, issue and enter the
24 following Disciplinary Order:

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1 Respondent shall notify the Bureau, in writing, within five (5) days, upon his
2 return to California.

3 The period of probation shall not run during the time Respondent is residing or
4 practicing outside California.

5 **5. Notification to Employer(s).** When currently employed or applying for
6 employment in any capacity in any health care profession, Respondent shall notify his employer
7 of the probationary status of Respondent's license. This notification to the Respondent's current
8 health care employer shall occur no later than the effective date of the Decision. Respondent
9 shall notify any prospective health care employer of his probationary status with the Bureau prior
10 to accepting such employment. This notification shall be by providing the employer or
11 prospective employer with a copy of the Bureau's Statement of Issues and Disciplinary Decision.

12 The Health Care Profession includes, but is not limited to: Licensed Vocational
13 Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency
14 Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary
15 technical health care positions.

16 Respondent shall cause each health care employer to submit quarterly reports to
17 the Bureau. The reports shall be on a form provided by the Bureau, shall include a performance
18 evaluation and such other information as may be required by the Bureau.

19 Respondent shall notify the Bureau, in writing, within five (5) days of any change
20 in employment status. Respondent shall notify the Bureau, in writing, if he is terminated from
21 any nursing or health care related employment with a full explanation of the circumstances
22 surrounding the termination.

23 **6. Interviews/Meetings With Bureau Representative(s).** Respondent,
24 during the period of probation, shall appear in person at interviews/meetings as directed by the
25 Bureau, or its designated representatives.

26 **7. Employment Requirements And Limitations.** During probation,
27 Respondent shall work in his licensed capacity in the State of California. This practice shall
28 consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

1 While on probation, Respondent shall not work for a nurses' registry or in any
2 private duty position, a temporary nurse placement agency, as a faculty member in an accredited
3 or approved school of nursing, or as an instructor in a Bureau approved continuing education
4 course except as approved, in writing, by the Bureau. Respondent shall work only on a regularly
5 assigned, identified and predetermined work site(s) and shall not work in a float capacity except
6 as approved, in writing, by the Bureau.

7 8. **Supervision Requirements.** Respondent shall obtain prior approval from
8 the Bureau, before commencing any employment, regarding the level of supervision provided to
9 Respondent while employed as a licensed vocational nurse or psychiatric technician.

10 Respondent shall not function as a charge nurse (i.e., work in any healthcare
11 setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians,
12 certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric
13 technician during the period of probation except as approved, in writing, by the Bureau.

14 9. **Completion of Educational Course(s).** Respondent, at his own expense,
15 shall enroll and successfully complete a course(s) substantially related to the violation(s) no later
16 than the end of the first year of probation; or Respondent shall be suspended from practice, until
17 he has enrolled in and has successfully completed the specified coursework.

18 The coursework shall be in addition to that required for license renewal. The
19 Bureau shall notify Respondent of the course content and number of contact hours required.
20 Within thirty (30) days of the Bureau's written notification of assigned coursework, Respondent
21 shall submit a written plan to comply with this requirement. The Bureau shall approve such plan
22 prior to enrollment in any course of study.

23 Upon successful completion of the course, Respondent shall cause the instructor
24 to furnish proof to the Bureau within thirty (30) days of course completion.

25 10. **Maintenance of Valid License.** Respondent shall, at all times while on
26 probation, maintain an active current license with the Bureau, including any period during which
27 suspension or probation is tolled.

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Law & Ethics
Sub Abuse

1 Should respondent's license, by operation of law or otherwise, expire, upon
2 renewal or reinstatement respondent's license shall be subject to any and all terms of this
3 probation not previously satisfied.

4 11. **Abstain From Use of Alcohol.** Respondent shall completely abstain from
5 the use of alcoholic beverages during the period of probation.

6 12. **Submit Biological Fluid Samples.** Respondent shall immediately submit
7 to biological fluid testing, at Respondent's cost, upon request by the Bureau or its designee.
8 There will be no confidentiality in test results; positive test results will be immediately reported
9 to the Bureau and the Respondent's current employer.

10 13. **Violation of Probation.** If Respondent violates the conditions of his
11 probation, the Bureau after giving Respondent notice and an opportunity to be heard, may set
12 aside the stay order and impose the stayed revocation of the Respondent's license. If during the
13 period of probation, an accusation or petition to revoke has been filed against the Respondent's
14 license or the Attorney General's Office has been requested to prepare an accusation or petition
15 to revoke probation against the Respondent's license, the probationary period shall automatically
16 be extended and shall not expire until the accusation or petition has been acted upon by the
17 Bureau. Upon successful completion of probation, the Respondent's license will be fully
18 restored.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Vocational Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 7-23-08.



ABRAHAM OLVERA VELASQUEZ
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

DATED: 7-25-08

EDMUND G. BROWN JR., Attorney General
of the State of California

LINDA K. SCHNEIDER
Supervising Deputy Attorney General



AMANDA DODDS
Legal Analyst

Attorneys for Complainant

Exhibit A

Statement of Issues No. VN-2006-1935

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER, State Bar No. 101336
Supervising Deputy Attorney General
3 AMANDA DODDS
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8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
11 **OR ITS SUCCESSOR IN INTEREST,**
THE DEPARTMENT OF CONSUMER AFFAIRS

12 In the Matter of the Statement of Issues Against:

Case No. VN-2006-1935

13 ABRAHAM OLVERA VELASQUEZ
83-381 Emerald Street
14 Indio, CA 92201

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
20 Statement of Issues solely in her official capacity as the Executive Officer of the Board of
21 Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.
22 2. On or about March 12, 2007, the Board of Vocational Nursing and
23 Psychiatric Technicians, Department of Consumer Affairs received an application for Vocational
24 Nurse Licensure from Abraham Olvera Velasquez (Respondent). On or about February 13,
25 2007, Abraham Olvera Velasquez certified under penalty of perjury to the truthfulness of all
26 statements, answers, and representations in the application. The Board denied the application on
27 December 17, 2007. In a letter received by the Board on or about January 28, 2008, Respondent
28 appealed the denial of his application in writing and requested a hearing.

JURISDICTION

3. This Statement of Issues is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2866 of the Business and Professions Code (Code) provides, in pertinent part, that the Board of Vocational Nursing and Psychiatric Technicians (Board) may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

5. Section 2878.5 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, or the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, in which event the record of the conviction is conclusive evidence thereof.

....

6. Section 2878.6 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a licensed vocational nurse is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation,
2 information or indictment.

3 7. Section 475 of the Code states:

4 (a) Notwithstanding any other provisions of this code, the provisions of
5 this division shall govern the denial of licenses on the grounds of:

6

7 (2) Conviction of a crime.

8

9 (4) Commission of any act which, if done by a licentiate of the
10 business or profession in question, would be grounds for suspension or revocation
11 of license.

12

13 8. Section 477 of the Code states:

14 As used in this division:

15 (a) "Board" includes "bureau," "commission," "committee," "department,"
16 "division," "examining committee," "program," and "agency."

17 (b) "License" includes certificate, registration or other means to engage in
18 a business or profession regulated by this code.

19 9. Section 480 of the Code states:

20 (a) A board may deny a license regulated by this code on the grounds that
21 the applicant has one of the following:

22 (1) Been convicted of a crime. A conviction within the meaning
23 of this section means a plea or verdict of guilty or a conviction following a plea of
24 nolo contendere. Any action which a board is permitted to take following the
25 establishment of a conviction may be taken when the time for appeal has elapsed,
26 or the judgment of conviction has been affirmed on appeal, or when an order
27 granting probation is made suspending the imposition of sentence, irrespective of
28 a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud or deceit with the
intent to substantially benefit himself or another, or substantially injure another;
or

(3) Done any act which if done by a licentiate of the business or
profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if
the crime or act is substantially related to the qualifications, functions or duties of
the business or profession for which application is made.

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2 10. Section 493 of the Code states:

3 Notwithstanding any other provision of law, in a proceeding conducted by
4 a board within the department pursuant to law to deny an application for a license
5 or to suspend or revoke a license or otherwise take disciplinary action against a
6 person who holds a license, upon the ground that the applicant or the licensee has
7 been convicted of a crime substantially related to the qualifications, functions,
8 and duties of the licensee in question, the record of conviction of the crime shall
9 be conclusive evidence of the fact that the conviction occurred, but only of that
10 fact, and the board may inquire into the circumstances surrounding the
11 commission of the crime in order to fix the degree of discipline or to determine if
12 the conviction is substantially related to the qualifications, functions, and duties
13 of the licensee in question.

14 As used in this section, "license" includes "certificate," "permit,"
15 "authority," and "registration."

16 11. California Code of Regulations, title 16, section 2521 states:

17 For the purposes of denial, suspension, or revocation of a license pursuant
18 to Division 1.5 (commencing with Section 475) of the Business and Professions
19 Code, a crime or act shall be considered to be substantially related to the
20 qualifications, functions or duties of a licensed vocational nurse if to a substantial
21 degree it evidences present or potential unfitness of a licensed vocational nurse to
22 perform the functions authorized by his license in a manner consistent with the
23 public health, safety, or welfare. . . .

24 12. California Code of Regulations, title 16, section 2522 states:

25 (a) When considering the denial of a license under Section 480 of the
26 Business and Professions Code, the Board, in evaluating the rehabilitation of the
27 applicant and his present eligibility for a license, will consider the following
28 criteria:

(1) The nature and severity of the act(s) or crime(s) under
consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or
crime(s) under consideration as grounds for denial which also could be
considered as grounds for denial under Section 480 of the Business and
Professions Code.

(3) The time that has elapsed since commission of the act(s) or
crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied.

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1 SECOND CAUSE FOR DENIAL OF APPLICATION

2 (Commission of an Act Constituting Grounds for License Suspension/Revocation)

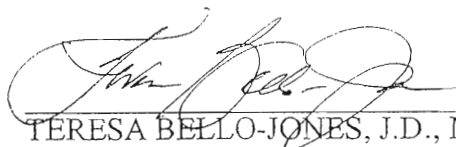
3 14. Respondent's application is subject to denial under sections 480
4 subdivision (a)(4) of the Code in that he pled guilty to and was convicted of two counts of
5 driving under the influence of alcohol, as detailed in paragraph 13, above. Such unprofessional
6 conduct would be grounds for license suspension or revocation pursuant to section 2878.5 of the
7 Code.

8
9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein
11 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
12 Technicians issue a decision:

- 13 1. Denying the application of Abraham Olvera Velasquez for a Vocational
14 Nurse License;
15 2. Taking such other and further action as deemed necessary and proper.

16
17 DATED: June 19, 2008

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21 TERESA BELLO-JONES, J.D., M.S.N., R.N.
22 Executive Officer
23 Board of Vocational Nursing and Psychiatric Technicians
24 Department of Consumer Affairs
25 State of California
26 Complainant

27 SD2008800660

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